

IC 30-2-8.5

Chapter 8.5. Indiana Uniform Transfers to Minors Act

IC 30-2-8.5-1

"Adult" defined

Sec. 1. As used in this chapter, "adult" means an individual who is at least twenty-one (21) years of age.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-2

"Benefit plan" defined

Sec. 2. As used in this chapter, "benefit plan" means an employer's plan for the benefit of an employee or partner.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-3

"Broker" defined

Sec. 3. As used in this chapter, "broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities, or both, for the person's own account or for the account of others, or both.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-4

"Custodial property" defined

Sec. 4. As used in this chapter, "custodial property" means:

- (1) an interest in property transferred to a custodian under this chapter; and
- (2) the income from and proceeds of that interest in property.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-5

"Custodian" defined

Sec. 5. As used in this chapter, "custodian" means a person designated as a custodian under section 24 of this chapter or a successor or substitute custodian designated under section 33 of this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-6

"Financial institution" defined

Sec. 6. As used in this chapter, "financial institution" means a bank, trust company, savings institution, or credit union chartered and supervised under state or federal law.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-7

"Guardian" defined

Sec. 7. As used in this chapter, "guardian" has the meaning set forth in IC 29-3-1-6.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-8

"Legal representative" defined

Sec. 8. As used in this chapter, "legal representative" means an individual's personal representative or guardian.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-9

"Members of the minor's family" defined

Sec. 9. As used in this chapter, "member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-10

"Minor" defined

Sec. 10. As used in this chapter, "minor" means an individual who is less than twenty-one (21) years of age.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-11

"Person" defined

Sec. 11. As used in this chapter, "person" means an individual, corporation, organization, or other legal entity.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-12

"Personal representative" defined

Sec. 12. As used in this chapter, "personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-13

"State" defined

Sec. 13. As used in this chapter, "state" includes a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession subject to the legislative authority of the United States.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-14

"Transfer" defined

Sec. 14. As used in this chapter, "transfer" means a transaction that creates custodial property under section 24 of this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-15**"Transferor" defined**

Sec. 15. As used in this chapter, "transferor" means a person who makes a transfer under this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-16**"Trust company" defined**

Sec. 16. As used in this chapter, "trust company" means a financial institution, corporation, or other legal entity authorized to exercise general trust powers.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-17**Scope and jurisdiction**

Sec. 17. (a) This chapter applies to a transfer that refers to this chapter in the designation under section 24(a) of this chapter by which the transfer is made if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of Indiana or the custodial property is located in Indiana. The custodianship created under this section remains subject to this chapter despite:

(1) a change in residence of:

(A) a transferor;

(B) the minor; or

(C) the custodian; or

(2) the removal of custodial property from Indiana.

(b) A person designated as custodian under this chapter is subject to personal jurisdiction in Indiana with respect to a matter relating to the custodianship.

(c) A transfer that purports to be made and that is valid under the uniform transfers to minors act, the uniform gifts to minors act or a substantially similar act of another state is governed by the law of the designated state and may be executed and is enforceable in Indiana if at the time of the transfer the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-18**Nomination of custodian**

Sec. 18. (a) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian, followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act". The nomination may name one (1) or more persons as substitute custodians to whom the property shall be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve.

The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights that is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(b) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under section 24(a) of this chapter.

(c) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under section 24 of this chapter. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property under section 24 of this chapter.
As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-19

Transfer by gift or exercise of power of appointment

Sec. 19. A person may make:

- (1) a transfer by irrevocable gift to; or
- (2) an irrevocable exercise of a power of appointment in favor of;

a custodian for the benefit of a minor under section 24 of this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-20

Transfer authorized by will or trust

Sec. 20. (a) A personal representative or trustee may make an irrevocable transfer under section 24 of this chapter to a custodian for the benefit of a minor as authorized in the governing will or trust.

(b) If the testator or settlor has nominated a custodian under section 18 of this chapter to receive the custodial property, the transfer shall be made to that person.

(c) If the testator or settlor has not nominated a custodian under section 18 of this chapter, or a person nominated as custodian dies before the transfer or is unable, declines, or is ineligible to serve, the personal representative or the trustee shall designate the custodian from among those eligible to serve as custodian for property of that kind under section 24(a) of this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-21

Other transfers by fiduciary

Sec. 21. (a) A personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor under section 24 of this chapter in the absence of a will or under a will or trust that does not contain an authorization to do so.

(b) A guardian may make an irrevocable transfer to another adult

or trust company as custodian for the benefit of the minor under section 24 of this chapter.

- (c) A transfer under subsection (a) or (b) may be made only if:
- (1) the personal representative, trustee, or guardian considers the transfer to be in the best interest of the minor;
 - (2) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument; and
 - (3) the transfer is authorized by the court if the property transferred exceeds ten thousand dollars (\$10,000) in value.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-22

Transfer by obligor

Sec. 22. (a) A person not subject to section 20 or 21 of this chapter that holds property of or owes a liquidated debt to a minor not having a guardian may make an irrevocable transfer to a custodian for the benefit of the minor under section 24 of this chapter.

(b) If a person having the right to nominate a custodian under section 18 of this chapter has nominated a custodian under that section to receive the custodial property, the transfer shall be made to the custodian.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-23

Receipt for custodial property

Sec. 23. A written acknowledgement of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian under this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-24

Manner of creating custodial property and effecting transfer; designation of initial custodian; control

Sec. 24. (a) Custodial property is created and a transfer is made if:

- (1) an uncertificated security or a certificated security in registered form is:

(A) registered in the name of:

- (i) the transferor;
- (ii) an adult other than the transferor; or
- (iii) a trust company;

followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act"; or

(B) delivered if in certificated form, or a document necessary for the transfer of an uncertificated security is delivered, together with a necessary endorsement to an adult other than the transferor or to a trust company as custodian,

accompanied by an instrument in substantially the form set forth in subsection (b);

(2) money is paid or delivered to a broker or financial institution for credit to an account in the name of:

- (A) the transferor;
- (B) an adult other than the transferor; or
- (C) a trust company;

followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act";

(3) the ownership of a life or endowment insurance policy or annuity contract is:

(A) registered with the issuer in the name of:

- (i) the transferor;
- (ii) an adult other than the transferor; or
- (iii) a trust company;

followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act";
or

(B) assigned in a writing delivered to:

- (i) an adult other than the transferor; or
- (ii) a trust company;

whose name in the assignment is followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act";

(4) an irrevocable exercise of a power of appointment or an irrevocable present right to future payment is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to:

- (A) the transferor;
- (B) an adult other than the transferor; or
- (C) a trust company;

whose name in the notification is followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act";

(5) an interest in real property is recorded in the name of:

- (A) the transferor;
- (B) an adult other than the transferor; or
- (C) a trust company;

followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act";

(6) a certificate of title issued by a department or agency of a state or of the United States that evidences title to tangible personal property is:

(A) issued in the name of:

- (i) the transferor;
- (ii) an adult other than the transferor; or
- (iii) a trust company;

followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act";
or

- (B) delivered and endorsed to:
- (i) an adult other than the transferor; or
 - (ii) a trust company;
- followed by the words: "as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act";
- or
- (7) an interest in property not described in subdivisions (1) through (6) is transferred to:
- (A) an adult other than the transferor; or
 - (B) a trust company;
- by a written instrument in substantially the form set forth in subsection (b).
- (b) An instrument in the following form satisfies the requirements of subsection (a)(1)(B) and (a)(7):

TRANSFER UNDER THE INDIANA UNIFORM
TRANSFERS TO MINORS ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to _____ (name of custodian), as custodian for _____ (name of minor) under the Indiana uniform transfers to minors act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: _____

(Signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Indiana uniform transfers to minors act.

Dated: _____

(Signature of Custodian)

(c) A transferor shall place the custodian in control of the custodial property as soon as practicable.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-25

Single custodianship

Sec. 25. A transfer may be made only for one (1) minor, and only one (1) person may be the custodian. All custodial property held under this chapter by the same custodian for the benefit of the same minor constitutes a single custodianship.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-26

Validity and effect of transfer

Sec. 26. (a) The validity of a transfer made in a manner prescribed in this chapter is not affected by:

- (1) the failure of the transferor to comply with section 24(c) of this chapter concerning possession and control;
- (2) the designation of an ineligible custodian, except designation of the transferor in the case of property for which

the transferor is ineligible to serve as custodian under section 24(a) of this chapter; or

(3) the death or incapacity of a person nominated under section 18 of this chapter or designated under section 24 of this chapter as custodian or the disclaimer of the office by that person.

(b) A transfer made under section 24 of this chapter is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this chapter and neither the minor nor the minor's legal representative has a right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

(c) By making a transfer, the transferor incorporates in the disposition all the provisions of this chapter, and grants to the custodian, and to a third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-27

Care of custodial property

Sec. 27. (a) A custodian shall:

- (1) take control of custodial property;
- (2) register or record title to custodial property if appropriate;
- and
- (3) collect, hold, manage, invest, and reinvest custodial property.

(b) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, a custodian in the custodian's discretion and without liability to the minor or the minor's estate, may retain custodial property received from a transferor.

(c) A custodian may invest in or pay premiums on life insurance or endowment policies on:

- (1) the life of the minor only if the minor or the minor's estate is the sole beneficiary; or
- (2) the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian is the irrevocable beneficiary.

(d) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify the property clearly as custodial property of the minor. Custodial property consisting of an undivided interest is identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is identified if the property is recorded, and custodial property subject to registration is identified

if the property is either registered or held in an account designated in the name of the custodian, followed by the words: "as a custodian for _____ (name of minor) under the Indiana uniform transfers to minors act".

(e) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor is at least fourteen (14) years of age.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-28

Powers of custodian

Sec. 28. (a) A custodian acting in a custodial capacity has all the rights, powers, and authority over custodial property that an unmarried adult owner has over the adult owner's own property, but a custodian may exercise those rights, powers, and authority in a custodial capacity only.

(b) This section does not relieve a custodian from liability for breach of the requirements of section 27 of this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-29

Use of custodial property

Sec. 29. (a) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

- (1) the duty or ability of the custodian personally or of any other person to support the minor; or
- (2) any other income or property of the minor that may be applicable or available for the support of the minor.

(b) On petition of an interested person or the minor if the minor is at least fourteen (14) years of age, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.

(c) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect an obligation of a person to support the minor.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-30

Custodian's expenses, compensation, and bond

Sec. 30. (a) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(b) Except for a person who is a transferor under section 19 of this chapter, a custodian has an election during each calendar year to

charge reasonable compensation for services performed during that year.

(c) A custodian's election to charge reasonable compensation for a calendar year must be exercised during the calendar year.

(d) Except as provided in section 33(f) of this chapter, a custodian is not required to give a bond.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-31

Exemption of third person from liability

Sec. 31. A person in good faith and without court order may act on the instructions of or otherwise deal with a person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

- (1) the validity of the purported custodian's designation;
- (2) the propriety of, or the authority under this chapter for, an act of the purported custodian;
- (3) the validity or propriety under this chapter of an instrument or instruction executed or given by the person purporting to make a transfer or by the purported custodian, or both; or
- (4) the propriety of the application of property of the minor delivered to the purported custodian.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-32

Liability to third person

Sec. 32. (a) A claim based on:

- (1) a contract entered into by a custodian acting in a custodial capacity;
- (2) an obligation arising from the ownership or control of custodial property, or both; or
- (3) a tort committed during the custodianship;

may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable.

(b) A custodian is not personally liable:

- (1) on a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and fails to identify the custodianship in the contract; or
- (2) for an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(c) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-33

Renunciation, resignation, death, or removal of custodian; designation of successor custodian

Sec. 33. (a) A person nominated under section 18 of this chapter or designated under section 24 of this chapter as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative. If:

- (1) the event giving rise to a transfer has not occurred; and
- (2) no substitute custodian able, willing, and eligible to serve was nominated under section 18 of this chapter;

the person who made the nomination may nominate a substitute custodian under section 18 of this chapter. Otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer from among the persons eligible to serve as custodian for that kind of property under section 24(a) of this chapter. The custodian designated has the rights of a successor custodian.

(b) A custodian at any time may designate a trust company or an adult other than a transferor under section 19 of this chapter as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor is at least fourteen (14) years of age and to the successor custodian and by delivering the custodial property to the successor custodian.

(d) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor is at least fourteen (14) years of age, the minor may designate as successor custodian, in the manner prescribed in subsection (b), an adult member of the minor's family, a guardian of the minor, or a trust company. If the minor is less than fourteen (14) years of age or fails to act within sixty (60) days after the ineligibility, death, or incapacity, the guardian of the minor becomes successor custodian. If the minor has no guardian or the guardian declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(e) A custodian who declines to serve under subsection (a) or resigns under subsection (c), or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and is responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the minor, or the minor if the minor is at least fourteen (14) years of age may petition the

court to remove the custodian for cause and to designate a successor custodian other than a transferor under section 19 of this chapter or to require the custodian to give appropriate bond.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-34

Accounting by and determination of liability of custodian

Sec. 34. (a) A minor who is at least fourteen (14) years of age, the minor's guardian or legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court for:

(1) an accounting by the custodian or the custodian's legal representative; or

(2) a determination of responsibility between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under section 32 of this chapter to which the minor or the minor's legal representative was a party.

(b) A successor custodian may petition the court for an accounting by the predecessor custodian.

(c) The court, in a proceeding under this chapter or in any other proceeding, may require or permit the custodian or the custodian's legal representative to give an accounting.

(d) If a custodian is removed under section 33(f) of this chapter, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-35

Termination of custodianship

Sec. 35. The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(1) the minor's attaining twenty-one (21) years of age; or

(2) the minor's death.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-36

Applicability

Sec. 36. This chapter applies to a transfer within the scope of section 17 of this chapter made after this chapter's effective date:

(1) if:

(A) the transfer purports to have been made under the Indiana uniform gifts to minors act (IC 30-2-8); or

(B) the instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the uniform gifts to minors act" or "as custodian under the uniform transfers to minors act" of any other state; and

(2) the application of this chapter is necessary to validate the transfer.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-37

Effect on existing custodianships

Sec. 37. (a) A transfer of custodial property made before July 1, 1989, is validated even if there was no specific authority in the Indiana uniform gifts to minors act (IC 30-2-8) for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(b) This chapter applies to all transfers made before July 1, 1989, in a manner and form prescribed in the Indiana uniform gifts to minors act (IC 30-2-8) except to the extent:

(1) the application impairs constitutionally vested rights or extends the duration of custodianships in existence on July 1, 1989; or

(2) provided in subsection (c).

(c) The amendments to IC 30-2-8 made by Acts 1973, P.L.293; do not apply to a custodian account established in accordance with IC 30-2-8 before January 1, 1974.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-38

Uniformity of application and construction

Sec. 38. This chapter shall be applied and construed to effectuate a general purpose to make uniform the law with respect to the subject of this chapter among states enacting this chapter.

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-39

Severability

Sec. 39. The provisions of this chapter are severable in the manner provided by IC 1-1-1-8(b).

As added by P.L.267-1989, SEC.2.

IC 30-2-8.5-40

Written election concerning custodial property

Sec. 40. (a) If a transferor:

(1) has transferred property to a custodian for the benefit of a minor before July 1, 1989; and

(2) has made or wishes to make further transfers of property to the same custodian for the benefit of the same minor after June 30, 1989;

the transferor shall make a written election under subsection (b) concerning the custodial property.

(b) A transferor may elect one (1) of the following:

(1) The transferor may establish a new account under this chapter for only the property transferred after June 30, 1989.

(2) The transferor may transfer the property transferred before

July 1, 1989, into a new account established under this chapter and make further transfers of property into the account established under this subdivision.

(3) The transferor may transfer property after June 30, 1989, into the account established before July 1, 1989. However, any property transferred into the account after June 30, 1989, is subject to this chapter.

As added by P.L.137-1994, SEC.1.